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Letter dated 20 January 2012 from the Ombudsperson addressed to the President of the Security Council

I have the honour to submit herewith the third report of the Office of the Ombudsperson, pursuant to paragraph 16 (c) of annex II to Security Council resolution 1989 (2011), according to which the Ombudsperson shall submit biannual reports to the Council summarizing her activities. The report describes the activities carried out by the Office of the Ombudsperson during the six-month period since the issuance of the previous report, from 21 July 2011 to 20 January 2012.

I would appreciate it if the present letter and the report were brought to the attention of the members of the Security Council and issued as a document of the Council.

(*Signed*) Kimberly **Prost**
Ombudsperson

12-21187 (E) 130212

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Report of the Office of the Ombudsperson pursuant to Security Council resolution 1989 (2011)

I. Background

1. The present report provides an update on the activities undertaken by the Office of the Ombudsperson since the submission of the second report of the Office pursuant to Security Council resolution 1989 (2011) (S/2011/447), of 21 July 2011.

II. Summary of activities: de-listing cases

General

2. The primary activities carried out by the Office of the Ombudsperson during the six-month period covered by the present report related to the de-listing requests submitted by individuals and entities.

De-listing cases

3. Seven new cases were submitted to the Office of the Ombudsperson during the reporting period, bringing the total number of de-listing petitions submitted since the establishment of the Office to 21 as at 20 January 2012. All of these were accepted and, at the time of reporting, were at various stages of the process provided for in annex II to resolution 1989 (2011). Unless requested by the petitioner, all names remain confidential while under consideration and in the event of the denial of the request or the withdrawal of the petition.

4. In total, 11 comprehensive reports have been submitted to the Committee since the Office was established, 5 of which were presented to the Committee during the reporting period. One of those 5 reports concerned a petition on behalf of an individual and 23 entities. The 5 reports contained recommendations in accordance with the revised regime set out in resolution 1989 (2011). The Ombudsperson appeared before the Committee on three occasions during the reporting period to present reports on four cases.[1]

5. Since the issuance of the second report of the Office, three individuals[2] and 6 entities[3] have been de-listed. The 6 entities were among 23 that had been the subject of a single request. A petition with respect to the remaining 17 entities and an individual is still before the Committee. No de-listing requests have been refused or withdrawn since the issuance of the second report. Cumulatively, since the Office was created, 13 cases[4] have been completed, five individuals and 6 entities have

[1] Reports on two of these cases had been submitted to the Committee at the time of the drafting of the second report of the Office; the reports on the other two cases were presented during the reporting period. Comprehensive reports on three additional cases have been submitted to the Committee since the issuance of the second report of the Office, but the Ombudsperson has yet to appear before the Committee in that regard.

[2] Shafiq ben Mohamed ben Mohamed al-Ayadi, Abdul Latif Saleh and Abu Sufian al-Salamabi Muhammed Ahmed Abd al-Razziq.

[3] Barakaat North America Inc., Barakat Computer Consulting, Barakat Consulting Group, Barakat Global Telephone Company, Barakat Post Express and Barakat Refreshment Company.

[4] Six of these cases were addressed as part of a single petition, as noted above.

been de-listed, one de-listing request has been refused and one petition has been withdrawn. Descriptions of the status of all of the cases as of the time of reporting are contained in the annex to the present report.

6. All seven requests submitted to the Office during the reporting period were made by individuals alone. Four of those seven individuals are represented by counsel. In total, 17 of the 21 cases submitted to the Office since its establishment have been brought by individuals alone, 2 by an individual together with one or more entities, and 2 by entities alone. In 11 of the 21 cases, the petitioner is/was assisted by legal counsel.

Working methods and standards

7. The Ombudsperson continues to consistently apply the same approach and standards, now adding a recommendation in each case as mandated by the Security Council in resolution 1989 (2011). The document entitled "Approach to and standard for analysis, observations, principal arguments and recommendation" has been amended to reflect this addition and is available from the website of the Office. While some standardization is reflected in the growing body of comprehensive reports, sufficient flexibility has been maintained in order to address the specific facts and circumstances of the individual cases. Greater experience has also allowed for a better understanding of key questions and issues of concern for the Committee, allowing the Ombudsperson to enhance her process in order to better address those matters in each instance.

8. The Ombudsperson remains satisfied that, in each case to date on which a comprehensive report has been submitted, the information-gathering and dialogue periods have been used successfully to draw out the relevant information relied upon in relation to the listing and to provide that information to the petitioner. Consistent with previous experience, with respect to each de-listing request examined since the issuance of the second report of the Office, the petitioner has been apprised of the case against him and has had the opportunity to provide a response, which has been incorporated into the comprehensive report submitted to the Committee.

9. In each of the five cases on which comprehensive reports were submitted to the Committee during the reporting period, the Ombudsperson asked questions of relevant States. The Ombudsperson also posed questions to all of the petitioners[5] and travelled to meet with two of them.[6] Questions posed to the petitioners have concerned, inter alia, matters raised by States and the Analytical Support and Sanctions Monitoring Team.

10. Since the issuance of the second report of the Office, the Ombudsperson has also worked on the new and pending requests on which comprehensive reports have yet to be completed. This has included circulating requests to relevant States and following up with their representatives, sometimes on multiple occasions. She has consulted with the Monitoring Team and conducted independent research, extensively in some cases, in order to gather relevant information.

[5] In the case relating to an individual and 23 entities, questions relevant to the entities were submitted to the individual.

[6] One additional petitioner was interviewed during the reporting period, but the comprehensive report on that case has yet to be submitted to the Committee.

11. During the reporting period, the Ombudsperson met with officials in five capitals on specific cases, either in conjunction with other consultations or by way of a separate trip, if merited. She also conducted face-to-face interviews with three petitioners.[7]

State cooperation

12. With the adoption of resolution 1989 (2011), the already pressing need for full State cooperation has become even more essential. Now that the Ombudsperson is responsible for submitting a recommendation with a "triggering" effect, it is even more imperative that States provide the Ombudsperson with relevant information in each case, to ensure that the report properly reflects all material that should be considered.

13. State cooperation continues to be strong. In the seven cases submitted to the Ombudsperson since the issuance of the second report of the Office, 26 requests for information have been sent thus far, to 10 States. In the five cases on which a comprehensive report was submitted to the Committee during the reporting period, responses were received from 20 of the 21 States contacted, with some States providing multiple responses. In addition, a number of Committee members provided information in response to the general circulation of a petition. Importantly, with regard to the same five cases, all designating States and States of residence provided responses; only one State of location/incorporation failed to reply.

Dialogue with the petitioner

14. During the reporting period, the Ombudsperson continued to ask questions of the petitioner in each of the cases that had reached, or advanced through, the dialogue phase. The petitioner responded in each case with respect to which dialogue had been completed. This exchange took various forms, including e-mail exchanges and telephone discussions, depending on the nature of the case. Bearing in mind the Security Council's preference for meetings with petitioners,[8] the Ombudsperson met with three petitioners during the reporting period. On two occasions, she also met with listed individuals who wished to discuss the possibility of submitting de-listing requests. In both cases, petitions were eventually received.

15. Exchanges with the petitioner in the dialogue phase continue to be vital for the effectiveness of the process. They provide the Ombudsperson with clearer insight as to the facts and underlying circumstances of each case. At the same time, they provide an important mechanism whereby the petitioner can respond to the case and provide information that will ultimately be reflected in the report presented to the Committee.

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[7] As noted above, comprehensive reports have been submitted on two of the cases in which the petitioners were interviewed; one case remains in the dialogue phase.

[8] Paragraph 6 (c) of annex II to Security Council rresolution 1989 (2011) states that the Ombudsperson should meet with the petitioner, to the extent possible.

Access to classified/confidential information

16. As the need for comprehensive information has become more pressing under the procedures provided for in resolution 1989 (2011), the challenges related to access to classified/confidential information have become even more acute.

17. Importantly, since the issuance of the second report of the Office, additional arrangements for access to classified/confidential information have been agreed with three States: Costa Rica, New Zealand and the United Kingdom of Great Britain and Northern Ireland. Added to the existing arrangements with Belgium and Switzerland, these bring the total number of such arrangements to five.

18. However, further progress on expanding the list — particularly to other States that are often implicated in de-listing petitions — is urgently needed. While efforts continue to be made to find practical solutions in the interim, lack of access to confidential information has been of concern in at least four recent cases.

19. The Ombudsperson has been aggressively pursuing this issue with a large number of States. Priority will continue to be placed on the issue in the upcoming period, with enhanced efforts to increase the number of agreements and arrangements, and a particular focus on those States that are most frequently involved in specific cases.

III. Summary of activities: development of the Office of the Ombudsperson

General

20. Activities to further develop and strengthen the Office of the Ombudsperson were limited during the reporting period, as a result of the increased caseload and the need to focus limited resources on the core functions of the Office. Nonetheless, efforts in this respect have continued to the extent possible.

Outreach and publicizing of the Office

21. The Ombudsperson delivered remarks on the work of her Office at the conference entitled "Globalization of crime: criminal justice responses", hosted by the International Centre for Criminal Law Reform and Criminal Justice Policy and the International Society for the Reform of Criminal Law and held from 7 to 11 August 2011, and at the annual conference of the Canadian Council on International Law, held from 3 to 5 November 2011, with both conferences taking place in Ottawa. She also participated in a panel on Security Council sanctions and human rights, at Columbia University on 29 November 2011. In addition, in an effort to reach a broader audience, the Ombudsperson contributed an article on the work of the Office to an upcoming publication entitled *Counter-Terrorism: International Law and Practice*.[9]

22. On 14 July, the Ombudsperson gave a briefing to States Members of the United Nations and to the press. The Ombudsperson also participated in briefings for new members of the Security Council at a seminar hosted by the United Nations

[9] Ana Maria Salinas de Friás, Katja Samuel and Nigel White, eds. (Oxford, Oxford University Press, 2012).

Institute for Training and Research on 15 November 2011, and at a seminar on Security Council sanctions for new Council members hosted by Security Council Report on 1 December 2011.

Interaction with the Security Council Committee pursuant to resolutions 1267 (1999) and 1989 (2011) concerning Al-Qaida and associated individuals and entities, and with the Monitoring Team

23. Since 21 July 2011, the Ombudsperson has appeared on three occasions before the Security Council Committee pursuant to resolutions 1267 (1999) and 1989 (2011) concerning Al-Qaida and associated individuals: on 26 July, to present the comprehensive reports on the cases relating to Shafiq ben Mohamed ben Mohamed al-Ayadi (de-listed; formerly QI.A.25.01) and Abdul Latif Saleh (de-listed; formerly QI.S.191.05); on 15 November, to present the comprehensive report on the case relating to Abu Sufian al-Salamabi Muhammed Ahmed Abd al-Razziq (de-listed; formerly QI.A.220.06); and on 13 December, to present the comprehensive report on case 8. The Ombudsperson has also provided a number of written updates to the Committee with regard to various cases as they have progressed through each phase.

24. Furthermore, the Ombudsperson has met with the Coordinator and members of the Monitoring Team on numerous occasions. At the operational level, there is ongoing communication with various experts on the Monitoring Team, as appropriate for particular cases. The Monitoring Team continues to provide the Ombudsperson with relevant information in individual cases in accordance with paragraph 3 of annex II to resolution 1989 (2011) and, on several occasions, has proposed questions for the petitioners. The Monitoring Team has also provided assistance with research and specific questions that have arisen in individual cases.

Liaison with States, intergovernmental organizations, United Nations bodies and non-governmental organizations

25. The Ombudsperson has continued her interaction with States over the past six months, placing particular emphasis on States of relevance to the de-listing petitions that have been presented. The Ombudsperson has met with representatives of 15 States in that context, meeting with some of them on multiple occasions. She has also engaged with several State experts on counter-terrorism matters. With regard to the question of agreements/arrangements for access to classified/confidential information, the Ombudsperson has written to 60 States and has met with representatives of 20 States and collectively with the representatives of the States members of the European Union. The Ombudsperson has also continued to meet with the informal group of like-minded States on targeted sanctions[10] and, on various occasions, has met with individual representatives of the European Union to discuss the operations of the Office. In addition, the Ombudsperson has taken advantage of operational trips in order to consult with relevant authorities in the capitals of various States.

26. Similarly, the Ombudsperson has continued to maintain liaison with representatives of the Counter-Terrorism Implementation Task Force, the Counter-Terrorism Committee Executive Directorate and the Financial Action Task Force on

[10] Comprising Austria, Belgium, Costa Rica, Denmark, Germany, Finland, Liechtenstein, the Netherlands, Norway, Sweden and Switzerland.

Money Laundering. On 19 October 2011, the Ombudsperson met with Ben Emmerson, the new Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, to discuss the work of the Office. The Ombudsperson and the Special Rapporteur continue to exchange information of relevance to both of their mandates.

27. To the extent possible given resource constraints, the Ombudsperson has sustained efforts to build relationships and work with civil society and non-governmental organizations, particularly those relating to human rights and sanctions. To this end, the Ombudsperson has interacted with academics and representatives of non-governmental organizations and civil society.[11]

Procedures and research

28. The Ombudsperson continues to follow developments with respect to relevant legal cases and to review press material and academic articles pertinent to the work of the Office. She continues to take available opportunities to discuss the broad range of issues related to the de-listing process with judges of national, regional and international courts, as well as with prosecutors and private lawyers, including representatives of the International Bar Association. The Ombudsperson has also discussed general legal issues of relevance with counsel in the Office of Legal Affairs and with experts from, inter alia, the Counter-Terrorism Committee Executive Directorate and the Monitoring Team.

Website

29. The Ombudsperson has continued to revise and develop the website of the Office. The website has been amended in several respects to reflect the changes in procedure provided for in resolution 1989 (2011). The site also now includes additional presentations by the Ombudsperson. Furthermore, a new section has been added that lists those States with which agreements/arrangements are in place for the sharing of confidential/classified information with the Office.

IV. Other activities

Notifications of listing

30. In accordance with paragraph 16 (b) of annex II to resolution 1989 (2011), when an individual or entity is added to the list and relevant States have been notified, the Ombudsperson is to send a notification directly to that individual or entity if there is a known address.

31. In the six months since the issuance of the second report of the Office, 10 entries have been added to the Al-Qaida Sanctions List. Each of those listings was considered with reference to the question of notification; in nine of the cases, however, no address was available or the address information provided was insufficiently detailed to provide a reasonable assurance that the notification would

[11] These have included representatives of Amnesty International; the Asia Pacific Civil-Military Centre of Excellence; the Australian National University Centre for International Governance and Justice School of Regulation, Justice and Diplomacy; the International Committee of the Red Cross; and the Netherlands Institute of International Relations Clingendael.

reach the addressee. In the case of Muhammad Jibril Abdul Rahman (QI.A.295.11), who was listed on 12 August 2011, notification letters were sent to possible addresses on 24 August 2011 on the basis of information included in the list entry.

32. In addition, over the course of the past six months, 56 notification letters have been sent to individuals with listed addresses who were included on the list when the Ombudsperson assumed her office. To date, 12 have been returned to sender, 2 have since petitioned for de-listing and 2 others have sent communications in response, which are being followed up.

Miscellaneous matters

33. The Ombudsperson has responded to various requests for information about the Security Council Committee pursuant to resolutions 1267 (1999) and 1989 (2011) concerning Al-Qaida and associated individuals and entities, and has provided public material in that regard, as appropriate. This has included assistance to States seeking information or clarifications, as well as requests made by individuals.

V. Future work

34. The priorities of the Ombudsperson remain consistent. The paramount activity of the Office will continue to be that related to de-listing requests, especially given the increased caseload. As anticipated in the second report, 14 of the total of 21 requests received by the Ombudsperson remained active as at 21 January 2012.

35. While it is difficult to anticipate the future caseload with any certainty, it is reasonable to assume that the Office will continue to receive requests at approximately the same rate during the next six-month period. On this basis, there will likely be 15-20 active cases by July 2012.

36. As mentioned above, the second priority matter will continue to be the development of arrangements or agreements for access to classified/confidential information. Resources permitting, the Ombudsperson will continue work to publicize the Office, as well as outreach and liaison activities.

VI. Observations and conclusions

37. The Office of the Ombudsperson has now been operational for 18 months, with several cases having reached completion. This experience clearly allows for further observations regarding the overall effectiveness of the process, as well as the identification of particular challenges. At the same time, it must be recognized that there has been very limited practice with respect to the new procedures established under resolution 1989 (2011). Further time and experience will be required in order to determine how those changes will operate and the overall impact that they will have on the fairness and transparency of the process.

Cooperation of States

38. The importance of State cooperation has been highlighted above. Since the issuance of the second report of the Office, the very good cooperation by States has been sustained.

39. As noted, the Ombudsperson is receiving replies to requests for information, including from key States holding the most relevant material. Nonetheless, problems identified previously persist. Some of the information submitted continues to lack the detail and specificity necessary for meaningful analysis. This has an impact in terms of the sufficiency of the material to support the case overall, and it limits the effectiveness of the dialogue with the petitioner, as few particulars are available to lend adequate precision to the discussion. In addition, frustration has been experienced in attempting to obtain confirmation or clarification from States concerning information that is in the public domain as a result of press reports or other means. It is evident that many of the challenges faced in this respect relate to the question of classified/confidential material, again highlighting the importance of reaching agreements with States on access to such material.

40. There also continue to be problems with regard to the timing of some of the responses received from States. The detailed process set out by the Security Council in annex II to resolution 1989 (2011) is time-sensitive. Its effectiveness is therefore dependent on information being provided within the prescribed periods. Late responses reduce the time available to the Ombudsperson to engage in dialogue with a petitioner and to prepare a comprehensive report. Ultimately, this can affect the fairness of the process. Given that the period for information-gathering has been extended and is now quite lengthy, it is important that States meet the deadlines for information-gathering set by the Security Council.

41. However, on the positive side, even at the early stages of implementation of the new procedures mandated under resolution 1989 (2011), it is clear that the Ombudsperson's mandate to provide a recommendation, combined with a "trigger" for de-listing, serves as a strong impetus for States to provide as much information as possible, in a timely manner. The consequences of a failure to do so will have a more direct impact on the decision to be taken in each case. In addition, in discussions with Member States, paragraph 25 of resolution 1989 (2011), in which the Security Council strongly urges Member States to provide all relevant information to the Ombudsperson, has proved useful in encouraging States to cooperate with the Ombudsperson.

Achieving key elements of fair process

42. Despite the challenges with respect to the gathering of information, there continue to be achievements in terms of enhancing the overall fairness and transparency of the process. In accordance with resolution 1989 (2011), the Ombudsperson and the Committee assess cases on the basis of the information made available to the Ombudsperson. Therefore, any lack of detail does not work to the prejudice of the petitioner. The information as gathered by the Ombudsperson, subject to any confidentiality restrictions, forms the case presented to the petitioner for response and is subsequently incorporated into and analysed in the comprehensive report. It also forms the basis for the recommendation of the Ombudsperson, and the Committee decisions taken since the adoption of resolution 1989 (2011) have been consistent with the recommendations made to date. Thus, the

experience gained so far demonstrates that the cumulative process allows the petitioner to know and respond to the case and to be heard by the decision maker. Furthermore, the decisions in each case are made after the Committee has received the independent, objective assessment and recommendation of the Ombudsperson, formulated on the basis of a thorough review of the relevant underlying information gathered.

43. There continues to be interaction between the Ombudsperson and the States members of the Committee with respect to the comprehensive reports, which demonstrates the serious and detailed consideration given to each de-listing petition. It is evident that the reports are being examined in capitals, and there have been exchanges with the Ombudsperson, involving several States, with respect to each case presented before the Committee.

44. Decisions in nine cases[12] have been taken in accordance with the revised procedure, all during the six-month period since the issuance of the second report of the Office. All have resulted in de-listing. To date, according to the information available to the Ombudsperson, no State has requested that a case be referred to the Security Council.

Effect of resolution 1989 (2011)

45. Overall, in the light of the application of the new procedures in the limited number of cases to date, it is already clear that the revised process encourages cooperation on the part of States with the Ombudsperson and serves to enhance the fairness and transparency of the decision-making process.

Reasons for decisions

46. The fairness of the process has also been strengthened by the Committee's evident determination to provide reasons for the decision taken in each case. With the exception of the cases only recently decided,[13] the Committee has provided the Ombudsperson with a notification of its decision in each of the cases, expressing reasons for the same, where de-listing was granted and in the single case where it was refused. The reasons have been communicated to the petitioner by the Ombudsperson. Under the terms of resolution 1989 (2011),[14] the Committee is required to provide reasons for the rejection of a de-listing request.

47. The Committee's efforts in this regard, which go beyond what is mandated, add to the overall reasonableness of the decision-making process, contributing to enhanced fairness and transparency. In addition, the Ombudsperson has been able to use the information provided in the reasons as a guide in subsequent cases, both in terms of dialogue with the petitioner and in assessing the sufficiency of information. In recognition of this, it would be helpful in future if consideration were given to

[12] Three individuals and six entities, as identified in footnotes 2 and 3. The six entities formed part of a single de-listing request.

[13] Relating to Abu Sufian al-Salamabi Muhammed Ahmed Abd al-Razziq, Barakaat North America Inc., Barakat Computer Consulting, Barakat Consulting Group, Barakat Global Telephone Company, Barakat Post Express and Barakat Refreshment Company, with respect to which reasons are expected to be provided in due course.

[14] See para. 13 of annex II. A similar requirement is set out in para. 33 of the resolution, with regard to objections by Committee members to de-listing requests.

mandating that reasons be given by the Committee to the de-listed person or entity, through the Ombudsperson or otherwise, in case of any decision to de-list.

Non-disclosure of the identity of designating States

48. Paragraph 29 of resolution 1989 (2011), in which the Security Council strongly urges relevant States to consent to the disclosure of their identity as designating States, has resulted in a number of positive changes. Since the issuance of the second report of the Office, consent to disclose has ultimately been received in each case in which it has been sought. However, in some instances, considerable follow-up has been required in order to gain the consent of all relevant States. Most notably, in cases involving more than one designating State, there has been understandable reluctance on the part of individual States to agree to the disclosure of one State's identity, without naming the other designating States. As a result, it has become possible for the refusal of one State to block the disclosure of any designating States in a particular case. While such cases have thus far been resolved in favour of disclosure, the potential problem remains. Moreover, the requirement that consent be sought from each State in each case is both difficult and time-consuming for the Ombudsperson to meet and adds to the already significant workload that needs to be undertaken with respect to individual de-listing petitions.

49. Therefore, it would be useful if the issue of the disclosure of the identity of designating States could be reconsidered with a view to allowing for such information to be provided where necessary for the fairness of the process, without the requirement that the consent of the relevant States be obtained.

Mandate for follow-up to de-listing/facilitating requests for exemptions

50. Further practice has served only to highlight once again the importance of empowering the Office of the Ombudsperson to follow up on cases relating to de-listed persons or entities who continue to face restrictions with respect to the movement of or access to funds or in relation to travel. In three of the five cases relating to individuals de-listed by the Committee through the Ombudsperson process, the de-listed person has subsequently contacted the Ombudsperson, claiming the continued application of sanctions measures after the de-listing. To date, it has been possible to address and respond to such concerns only in the context of purely informal discussions with States. The implications in terms of fairness for individuals and entities facing such unjustified restrictions are obvious. A far more effective response to such situations would be possible if the Ombudsperson were specifically mandated to follow up on such cases with relevant States or otherwise, as might be necessary.

51. Even more pressing is the question of the access of individuals and entities to the exemptions to the sanctions measures, which have been prescribed by the Security Council.[15] In four of the de-listing cases addressed during the reporting period, petitioners sought assistance from the Ombudsperson in presenting requests for exemptions to the Committee. Under the current mandate, the Ombudsperson has no ability even to facilitate the presentation of such a request by an individual or entity to the Committee. This proved problematic in the specific cases dealt with during the reporting period. Furthermore, in general, no recourse is available for an

[15] See para. 1 of resolution 1452 (2002) and para. 1 (b) of resolution 1989 (2011).

individual or entity to pursue such an exemption from the Committee other than through a State. Particularly for individuals residing in States with limited resources and capacity, this can mean that there is little potential for such exemptions to be realized, since such individuals are unable to have the matter presented before the Committee for consideration.

52. For these reasons and those set out in previous reports, it would be helpful if consideration were given to mandating the Office of the Ombudsperson to follow up on claims of the continued application of sanctions measures despite de-listing and to directly transmit exemption requests from individuals and entities to the Committee for its consideration.

Translation/administrative issues

53. As noted previously, annex II to resolution 1989 (2011) sets strict timelines for the work of the Ombudsperson and for the Committee's consideration of and decisions on petitions. Those timelines are an essential component of the fairness of the process, ensuring that the requests will be reviewed within a reasonable and finite period.

54. In accordance with resolution 1989 (2011), the 30-day time period for the Committee's consideration of a de-listing request commences 15 days after the comprehensive report has been submitted to the Committee in all official languages of the United Nations. During the reporting period, owing to resource constraints, difficulties were encountered in some cases in obtaining translations of comprehensive reports in a timely manner, delaying the Committee's consideration of the reports. In a time-sensitive procedure, this can obviously have an impact on the overall fairness of the process.

55. In addition, the general guidelines concerning word limits for translation, applicable to parliamentary documents in the United Nations system, are being applied to the comprehensive reports of the Ombudsperson. In combination, full translation as a prerequisite for the consideration of a report by the Committee and word limits as to what can be translated create a practical limitation on the content of the Ombudsperson's comprehensive reports, potentially encumbering the independence of the Office. Given that the comprehensive reports serve as a critical mechanism for fair process, this raises a serious concern.

56. Within this context, and given resource constraints and the time needed to translate lengthy documents, the problem was raised with relevant Secretariat officials. Consultations were undertaken in order to manage and mitigate any adverse effects on the process of the Office of the Ombudsperson. A compromise was agreed that should allow for timely translation and a degree of flexibility with respect to word limits. However, the matter remains an issue of concern and will need to be monitored.

57. It is clear that the translation of the comprehensive reports into all official languages of the United Nations is an important component of fair process, aimed at ensuring that States have an opportunity to fully and properly review the material, and as reflected in resolution 1989 (2011). However, in some circumstances, balancing the competing interests involved may require the prioritization of some parts of the reports for immediate translation or other, similar measures to ensure that a case can be considered by the Committee on a timely basis. For this reason, it

would be useful if the responsibility for such matters rested solely with the Committee, the body best placed to make such determinations. To that end, it would be helpful if consideration were given to amending annex II so as to give the Committee the flexibility to determine when the requirements for translation have been met sufficiently to allow for the consideration of the de-listing petition and the comprehensive report by the Committee.

Resources

58. Resource needs identified in the previous reports of the Ombudsperson and recognized by the Security Council in resolution 1989 (2011)[16] have been addressed. In line with the request of the Secretary-General, the General Assembly has approved the establishment of two dedicated positions to strengthen the Office of the Ombudsperson: a Professional Officer (P-4) and an Administrative Assistant. Steps are being taken to fill those positions as quickly as possible. Furthermore, additional funds have been allocated to cover the translation of material received from or to be transmitted to petitioners or of relevant material in specific cases that is not submitted in one of the six official languages of the Organization. The Department of Political Affairs provided assistance in spearheading the request for resources through the budgetary process.

59. Experience gained during the reporting period further demonstrated the importance of establishing these dedicated positions at this stage in the development of the Office of the Ombudsperson. While the Department of Political Affairs continued its efforts to provide support, the challenges posed, particularly by the increased caseload, highlighted the need for a more definitive and structural solution.

60. Despite these challenges, by prioritizing its core functions, the Office managed to continue to fulfil its central mandate of assisting the Committee with respect to de-listing petitions during the reporting period. However, related urgent tasks such as work on agreements on access to confidential/classified information and outreach activities were curtailed. The addition of committed resources will, it is hoped, allow for enhanced efforts with respect to these issues, in addition to increased efficiency in carrying out the work related to the core functions of the Office. Overall, the additional resources will be of significant assistance in ensuring that the Office of the Ombudsperson can continue to fully meet the mandate entrusted to it by the Security Council.

[16] See para. 24.

Annex

Status of cases

Case 1 (Status: denied)

Date	*Description*
28 July 2010	Transmission of case 1 to the Security Council Committee established pursuant to resolutions 1267 (1999) and 1989 (2011) concerning Al-Qaida and associated individuals and entities
28 February 2011	Comprehensive report submitted to the Committee
10 May 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
14 June 2011	Committee decision
1 September 2011	Formal notification to petitioner setting out reasons

Case 2, Safet Ekrem Durguti (Status: de-listed)

Date	*Description*
30 September 2010	Transmission of case 2 to the Committee
26 April 2011	Comprehensive report submitted to the Committee
31 May 2011	Presentation of comprehensive report by the Ombudsperson to the Committee
14 June 2011	Committee decision to de-list
12 August 2011	Formal notification to petitioner setting out reasons

Case 3 (Status: de-listing request withdrawn by petitioner)

Date	*Description*
3 November 2010	Transmission of case 3 to the Committee
14 June 2011	Comprehensive report submitted to the Committee
26 July 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
2 August 2011	Withdrawal of petition

Case 4, Shafiq ben Mohamed ben Mohamed al-Ayadi (Status: de-listed)

Date	*Description*
6 December 2010	Transmission of case 4 to the Committee
29 June 2011	Comprehensive report submitted to the Committee
26 July 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
17 October 2011	Committee decision to de-list
8 November 2011	Formal notification to petitioner setting out reasons

Case 5, Tarek ben al-Bechir ben Amara al-Charaabi (Status: de-listed)

Date	*Description*
30 December 2010	Transmission of case 5 to the Committee
26 April 2011	Comprehensive report submitted to the Committee
31 May 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
14 June 2011	Committee decision to de-list
12 August 2011	Formal notification to petitioner setting out reasons

Case 6, Abdul Latif Saleh (Status: de-listed)

Date	*Description*
14 January 2011	Transmission of case 6 to the Committee
17 June 2011	Comprehensive report submitted to the Committee
26 July 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
19 August 2011	Committee decision to de-list
8 November 2011	Formal notification to petitioner setting out reasons

Case 7, Abu Sufian al-Salamabi Muhammed Ahmed Abd al-Razziq (Abousfian Abdelrazik) (Status: de-listed)

Date	*Description*
28 January 2011	Transmission of case 7 to the Committee
23 September 2011	Comprehensive report submitted to the Committee

Date	*Description*
15 November 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
30 November 2011	Committee decision to de-list

Case 8 (Status: committee phase)

Date	*Description*
17 March 2011	Transmission of case 8 to the Committee
23 September 2011	Comprehensive report submitted to the Committee
13 December 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
27 December 2011	Committee decision to de-list six entities; remainder of request pending

Case 9 (Status: dialogue phase)

Date	*Description*
19 April 2011	Transmission of case 9 to the Committee
21 October 2011	Information-gathering phase ends
21 February 2012	Deadline for the completion of the dialogue phase

Case 10 (Status: Committee phase)

Date	*Description*
6 May 2011	Transmission of case 10 to the Committee
6 September 2011	Information-gathering phase ends
9 January 2012	Comprehensive report submitted to the Committee

Case 11 (Status: Committee phase)

Date	*Description*
1 June 2011	Transmission of case 11 to the Committee
1 November 2011	Information-gathering phase ends
19 January 2012	Comprehensive report submitted to the Committee

Case 12 (Status: dialogue phase)

Date	*Description*
30 June 2011	Transmission of case 12 to the Committee
14 November 2011	Information-gathering phase ends
19 March 2012	Deadline for the completion of the dialogue phase

Case 13 (Status: Committee phase)

Date	*Description*
7 July 2011	Transmission of case 13 to the Committee
7 November 2011	Information-gathering phase ends
14 December 2012	Comprehensive report submitted to the Committee

Case 14 (Status: dialogue phase)

Date	*Description*
20 July 2011	Transmission of case 14 to the Committee
19 December 2011	Information-gathering phase ends
20 February 2012	Deadline for the completion of the dialogue phase

Case 15 (Status: dialogue phase)

Date	*Description*
4 August 2011	Transmission of case 15 to the Committee
19 December 2011	Information-gathering phase ends
20 February 2012	Deadline for the completion of the dialogue phase

Case 16 (Status: dialogue phase)

Date	*Description*
15 August 2011	Transmission of case 16 to the Committee
15 December 2011	Information-gathering phase ends
15 February 2012	Deadline for the completion of the dialogue phase

Case 17 (Status: information-gathering phase)

Date	*Description*
26 September 2011	Transmission of case 17 to the Committee
26 January 2012	Deadline for the completion of the information-gathering phase

Case 18 (Status: information-gathering phase)

Date	*Description*
5 October 2011	Transmission of case 18 to the Committee
6 February 2012	Deadline for the completion of the information-gathering phase

Case 19 (Status: information-gathering phase)

Date	*Description*
16 November 2011	Transmission of case 19 to the Committee
16 March 2012	Deadline for the completion of the information-gathering phase

Case 20 (Status: information-gathering phase)

Date	*Description*
21 November 2011	Transmission of case 20 to the Committee
22 March 2012	Deadline for the completion of the information-gathering phase

Case 21 (Status: information-gathering phase)

Date	*Description*
3 January 2012	Transmission of case 21 to the Committee
3 May 2012	Deadline for the completion of the information-gathering phase